IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SIXTEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

-

WRIT PETITION NO : 14392 of 2004

Between:

1.Muppidi Venkataramana, W/o. Venkata Chalapathi Rao,
R/o. 26-10-8, Gollavari Street, Vijayawada, Krishna District.
2.A.V. Raja Bhushanam, S/o. A. Sekharbabu,
R/o. 26-10-8, Gollavari Street, Vijayawada, Krishna District.

..... PETITIONERS

AND

1 The Director of Factories, Govt. of Andhra Pradesh, at Hyderabad.
2 Inspector of Factories, Department of Factories, Machilipatnam, Krishna District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any appropriate Writ, Order or direction preferably a writ in the nature of Writ of Mandamus, declaring the inaction of the 2nd respondent in not taking any legal action as per law against the persons who are running the Durga Rice and Flour Mill, Gudivada, Krishna District, without obtaining license by taking consent from the petitioners, who are the 25 % shareholders, as per the Factories Act as being illegal, arbitrary and violative of the Factories Act and the Rules made thereunder and consequently direct the respondents to forthwith take appropriate action against the persons who are running the said Mill.

Counsel for the Petitioners: MR.V.SUBRAHMANYAM

Counsel for the Respondents: GP FOR INDUSTRIES & COMMERCE

The Court made the following:

ORDER:

The petitioners seek a writ of Mandamus declaring the alleged inaction of the second respondent in taking the action as per law against the persons who are running one Durga Rice and Flour Mill, Gudivada, Krishna District, as arbitrary and illegal.

The petitioners claim to be the minor shareholders in respect of the said rice mill. It appears that there are certain disputes with regard to other partners. The first petitioner herein earlier filed W.P.No.18770 of 2002 seeking a declaration that the action of the respondents in not considering his representation dated 18.05.2002 wherein it was alleged that the other sharers have contravened the provisions of various enactments, as arbitrary and illegal. This Court having regard to the facts and circumstances of the case, disposed of the writ petition observing that the question as to whether the petitioner is one of the sharers and also as to whether the remaining sharers are contravening any provision, are the matters to be verified by the concerned authorities, and directing the respondents 1 and 2 to pass appropriate orders on the representation dated 18.05.2002 within a period of two months from the date of receipt of that order. It appears that thereafter the petitioners again made a complaint dated 10.10.2003 stating that other sharers have leased out the rice mill without obtaining their consent and running the rice mill. In pursuance thereof, the licensing authority-second respondent inspected the premises on 03.06.2004 and found that the rice mill was closed. The licensing authority informed the same to the petitioners stating that no licence has been issued for the year 2004 to anyone and that the leaseholder of the mill has already left the rice mill after completion of his lease period on 13.11.2003. However, the petitioners alleged that

the version of the 2nd respondent that no activity is going on in the mill is factually incorrect and it is reliably learnt by them that somebody is running the mill. It is also the contention of the petitioners that since the lease deed is valid till the end of the year 2004, the lessee must have been running the mill and the 2nd respondent failed to take action as per law in preventing the persons who are running the mill. Hence, this writ petition.

As can be seen from the letter addressed by the licensing authority dated 08.07.2004, he has clearly stated that on his personal inspection on 30-06-2004 it was found that the mill was closed. He also stated that no licence has been issued to any one for the year 2004. If it is not factually correct, the petitioner ought to have placed the relevant material to substantiate his claim. In the absence of any such material except a vague statement of the petitioners in the affidavit that it was "validly learnt that the mill is being run by someone", the declaration as prayed for cannot be granted. Moreover, as rightly observed by the 2nd respondent, the issue appears to be relating to property rights between private persons. Hence, the writ petition cannot be maintained and it is accordingly dismissed. However, this shall not preclude the petitioners to work out the appropriate remedies as available under law. No costs.

16.08.2004

VGB

To

1 The Director of Factories, Govt. of Andhra Pradesh, at Hyderabad.
2 Inspector of Factories, Department of Factories, Machilipatnam, Krishna District.

3 2CCs to the Government Pleader for Industries and Commerce, High Court Buildings, Hyderabad (OUT)

4 2CD copies